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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,859	02/25/2005	Tanio M. Markov	AP050-05	9577
29689	7590	12/17/2007		
DAVID A. GUERRA INTERNATIONAL PATENT GROUP, LLC 2025 17TH AVENUE N.W. CALGARY, AB T2M 0S7 CANADA			EXAMINER ELOSHWAY, NIKI MARINA	
			ART UNIT 3781	PAPER NUMBER
			MAIL DATE 12/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,859

Applicant(s)

MARKOV, TANIO M.

Examiner

Niki M. Eloshway

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 5-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/25/05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zemke (U.S. 4,091,958) in view of Kimball (U.S. 1,881,362). Zemke teaches a cap 10 for closing a container with two radially extending projections on opposite sides 30. The cap comprises a closing portion 14 with an elastic gasket 44, two members 22, and two inverted L-shaped channels 24.

Zemke discloses the claimed invention except for the pulling element located opposite the closing portion. Kimball teaches that it is known to provide a cap with a closing element opposite the closing portion (see element 12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cap of Zemke with the pulling element connecting the lower ends of the two extending embers, as taught by Kimball, in order to provide an alternative gripping arrangement which allows easier application of lateral force.

4. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimball (U.S. 1,881,362) in view of Zemke (U.S. 4,091,958). Kimball teaches a cap B for closing a container A. The cap comprises a closing portion at lead line B and 14, two members 16, and a pulling element at 12.

Kimball discloses the claimed invention except for the gasket, and channel and projection arrangement. Zemke teaches that it is known to provide a cap with a gasket (element 44) and a channel and projection arrangement (elements 26 and 30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cap assembly of Kimball with a gasket, as taught by Zemke, in order to better seal the container. It also would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cap assembly of Kimball with the two members 16 having channels which engage projections on the container, as taught by Zemke, in order to prevent unintentional slipping of the two extending members with respect to the container.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is cited for the cap with channels structure.

6. THIS ACTION IS NON-FINAL.

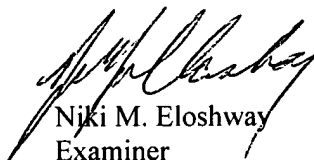
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloschway whose telephone number is 571-272-4538. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Niki M. Eloshway
Examiner
Art Unit 3781

nme